

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON

Respondent,

v.

KEVIN D. NASH

Appellant.

No. 42080-5-II

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

12 JAN 17 PM 2:38  
STATE OF WASHINGTON  
BY KEVIN D. NASH  
DEPUTY

COURT OF APPEALS  
DIVISION II

I, Kevin D. Nash, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

I believe that I received ineffective assistance of counsel from N. Antonio Hill, WSBA # 17669.

Beginning February 7th of 2011 during Your Dire, I informed Mr. Hill multiple times that I was familiar with several members of the original jury panel selection list. I made this fact known to Mr. Hill before any proceedings had begun.

Looking out into the faces of the people before me, I easily recognized four women and one man. The man and the two women were individuals whom I recognized from around the community. As I was an active member of the YMCA and regularly attended neighborhood functions.

Thankfully, the man and two women were not selected and were excused from the jury panel. (Panel Id 31922)

The other two jurors which whom I recognized were, juror number 18, Ruth Ann Moore (Badge # 1482840) and juror number 6, Schadow Lee Randolph (Badge # 1482632).

Mr. Hill wanted to know how I knew them. I told him that, I knew Ruth Ann Moore as a fellow public transportation rider who I had encountered and conversed with on several occasions. As for Schadow Lee Randolph, I recognized her face, voice, and disposition; however at that specific time, I couldn't readily recall how or where I knew her from.

By this time, court proceedings were under-way and prosecuting attorney, Hugh K. Birgenheier, WSB # 14720 was addressing the jury panel. He asked the jurors if any of them recognized or knew me. After no one raised their hand or acknowledged that they recognized or knew me, I reminded Mr. Hill again that I knew the two jurors which whom I specified.

Mr. Hill asked judge Ronald Culpepper for a sidebar to discuss the matter. After a brief sidebar, the judge addressed Ruth Ann Moore and asked her if she knew me. Her response was simply that, I looked familiar and that she felt fear at being present in the court room. She failed to mention anything pertaining to how she recognized me or why she was fearful. Her statements lead the judge to dismiss her from the jury panel.

Surprisingly, Schadow Lee Randolph was not addressed or asked the same questions regarding knowing me. I told Mr. Hill for what seemed like the 100th time that I did in-fact know Schadow Lee Randolph. His response was that, the prosecutor would most likely eliminate her from the panel anyways, so I shouldn't worry. Unfortunately for me, I had great reason to worry because she went on to be selected as one of the final 12 jurors and

ultimately took part in finding me guilty.

Further-more, it was unfortunate that I did not remember where I met Shadow Lee Randolph until the trial was over and I was awaiting my sentencing.

I informed Mr. Hill of my sudden revelation. His response was that, I could use this information as one of the grounds in my appeal. Of course, I was not thrilled with his response or reasoning because I felt it should not have come to this; especially when I told him numerous times before and during the trial that I knew Shadow Lee Randolph.

Since I couldn't recall exactly how I knew her, he seemingly paid no mind to that fact, nor raised the issue up during trial. I felt that he should have brought the issue to the court's attention so that she could have been addressed like Ruth Ann Moore, and be dismissed from the panel as well.

On my own, I filed a motion for a mistrial before my sentencing, on the grounds that, a juror which whom I knew was allowed to remain on the jury. Of course, my motion was adamantly disputed by the prosecutor and ignored by the judge; seemingly on the basis that I was attempting to evade taking responsibility for my actions and was trying to prolong my sentencing.

In all earnestly, I simply wanted a fair and impartial trial, and most importantly, I wanted and deserved effective assistance of counsel, which I feel, I did not receive.

For the record, Shadow Lee Randolph and I became acquainted while attending a court imposed C-CAP life skills

program in Seattle in the year of 2006. We both used the Sounder transportation system to commute up to Seattle. She from Lakewood and I from Puyallup. I am also certain that she changed her name to Shadow, from what I originally met her as.

In conclusion, I whole-heartedly believe that my statement of additional grounds has merit and is not frivolous.

I pray that this statement, along with the Brief of Appellant from my attorney, Rebecca Wold Bouckey will not only shine some light on the malfeasance which was done to me, but most importantly; that the person(s) reviewing this statement will reverse the convictions of second degree possession of stolen property, burglary in the first degree, and will allow me a fair and impartial appeal, so that justice may be properly served.

01/12/12

*[Signature]*